

FWP COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: October 11, 2012

Agenda Item: Spotted Dog WMA Mineral Rights Acquisition (Region 2, Powell County)

Division: Fish & Wildlife

Action Needed:

Approval of Tentative Rule: _____

Approval of Final Rule: X

Endorse Course of Action: _____

None - information only: _____

Time Needed on Agenda for this Presentation: 10 minutes

Background (Brief description of the issue, decision to be made, history, etc.): Montana Fish, Wildlife and Parks (FWP) proposes to spend \$70,745 of Habitat Montana funding to purchase the mineral rights that are held by the Pauly Family on 14,149 acres within FWP's recently acquired 37,877-acre Spotted Dog Wildlife Management Area (WMA). In the 2010 acquisition from the Rock Creek Cattle Company, FWP received nearly all the mineral rights to 10,408 acres and 50% of the mineral rights to 14,149 acres within its new WMA (see Figure 1 in the environmental assessment for the mineral rights ownership map). The other 50% interest in the mineral rights to the 14,149 acres is owned by the Pauly family, and that 50% is now proposed for purchase by FWP. DNRC owns the oil, gas, and coal rights to 2,419 acres within the family's subsurface interest and 640 acres under FWP fee title portion of the WMA. The federal government retained the subsurface rights to the remaining 5,307 acres.

Public Involvement Process & Results (Brief description of the type of public involvement and summary of what we heard from the public): A Draft Environmental Assessment (EA) was completed by FWP for the proposed Mineral Rights Acquisition for Spotted Dog WMA and released for public comment on July 5, 2012; it was available through August 3, 2012. FWP received 9 emailed or phoned comments (Appendix A), representing 10 people (1 each from Billings, Butte, Deer Lodge, Helena, Missoula, and Plains; 2 from Townsend; and 1 unknown). Six of the 9 comments [representing 6 people] specifically supported the mineral rights acquisition. One of the 9 comments [representing 1 person] did not specifically support or oppose the acquisition but stated, "This makes sense to me." Two comments [representing 3 people] opposed the acquisition. Comments in opposition were that the money could and should be better spent.

Alternatives and Analysis (Brief description of alternative solutions with analysis of the pros and cons of each): No-action is the only viable alternative to the proposal that has been negotiated with the willing seller.

Agency Recommendation & Rationale (Brief description of our recommendation to the Commission and the reasons for it): FWP recommends acquiring subsurface rights to protect and conserve the surface as wildlife habitat and a recreational resource, and limit any future surface removal by another party. Failure to acquire these rights would leave the Spotted Dog WMA and FWP's investment potentially vulnerable to the independent objectives and direction of the holder of the mineral rights.

Proposed Motion (Draft language the Commission could use to adopt the agency recommendation): Move that the Commission approve the Department's proposal to complete the purchase of the Spotted Dog WMA mineral rights as proposed.